



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/015,007

12/11/2001

John Matthew Santosuosso

ROC920010158US1

2084

7590

05/27/2009

Leslie J. Payne  
IBM Corporation, Dept. 917  
3605 Highway 52 North  
Rochester, NY 55901-7829

EXAMINER

RANGREJ, SHEETAL

ART UNIT

PAPER NUMBER

3686

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/015,007	<b>Applicant(s)</b> SANTOSUOSSO, JOHN MATTHEW	
	<b>Examiner</b> SHEETAL R. RANGREJ	<b>Art Unit</b> 3686	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 9, 13-16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9, 13-16, and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                             |                                                                                         |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Prosecution History Summary***

1. Claims 5-6, 8, 10-12, 17-18, and 20-25 are cancelled.
2. Claims 1, 9, 13, and 19 are amended.
3. Claims 1-4, 7, 9, 13-16, and 19 are pending.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7, 9, 19, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington et al., U.S. Patent No. 6,161,099, reference A on the previously attached PTO-892 in view of Lucking-Reiley, David, *Auctions on the Internet: What's Being Auctioned, and How?*, September 2000, *The Journal of Industrial Economics*, Volume XLVIII, No. 3, page 244, reference U on the previously attached PTO-892, and Taylor et al., Publication No. 2002/0065763, reference A on the currently attached PTO-892.
4. As per claim 1, Harrington et al. teaches a computer-implemented method for controlling an auction event between a plurality of computer systems on a multi-user and interactive network, i.e. an apparatus and process for conducting auctions over electronic networks (see abstract, lines 1-3 of Harrington et al.); the method comprising the steps of: setting at least one parameter value for use in precluding a submitted bid of one or more bidders, i.e. the present

invention also provides for verifying that each bid is in conformance with predetermined bid parameters (see column 4, lines 56-57 of Harrington et al.), said at least one membership duration parameter value specifying a cut-off time (see abstract, lines 5-12 of Harrington et al.); and, automatically precluding the submitted bid of the one or more bidders at other computer systems on the network during the auction event that are identified by the parameter value, i.e. the bid verification may include automatically refusing acceptance of submitted bids that do not conform to predetermined bid parameters (see column 4, lines 60-62 of Harrington et al.). Examiner states that the cut-off time is a predetermined bid parameter in Harrington according to the abstract.

However, Harrington et al. does not teach the portion of the method where the seller identifies the parameter value or wherein the parameter value is a membership history or bidding history. Lucking-Reiley, however, does teach the method of setting at least one parameter value for use in precluding submitted bids of one or more bidders by a seller identifying the parameter value when registering for an auction at one computer system, i.e. on listing-agent sites, the individual seller chooses “a minimum acceptable bid amount” as a parameter in the auction listing (see page 244, lines 9-11 of Lucking-Reiley).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of Harrington et al. One of ordinary skill in the art would have been motivated to incorporate this feature so that if the highest bid does not exceed the amount of the reserve price, then the good will not be sold (see page 244, lines 13-14 of Lucking-Reiley).

Additionally, Taylor et al. teaches wherein the parameter value relates to either a membership history value or a bidding history value of the one or more bidders, i.e. the summary table stores a summary of the feedback information regarding the bidders and sellers and bidders that have experienced a particular bidder's behavior during the past auctions provide the feedback information (or comments) regarding the bidder (see page 3, paragraph 0041, lines 3-7 of Taylor et al.).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the methods of Harrington et al. and Lucking-Reiley. One of ordinary skill in the art would have been motivated to incorporate this feature so that the seller has valuable insights to evaluate the potential bidders (see page 4, paragraph 0044, lines 2-3 of Taylor et al.).

5. However, none of the references explicitly teach a membership history wherein the bidders have to have been members for a specific length of time. Taylor et al., however, does teach the review of a bidder's bidding history or profile to determine whether or not to pre-approve the bidder to bid on a listing (see page 2, paragraph 0023, lines 8-11 of Taylor et al.). Since the success of online shopping sites depends upon their ability to provide enjoyable shopping experiences and easy-to-use and reliable environments in which buyers and sellers can conduct business efficiently, it is paramount that certain bidders be precluded from bidding at an auction based upon particular parameters. As discussed in the above references, it is well-known in the art to prevent bidders from bidding based upon a variety of parameters. Therefore, it would have been obvious to try, by one of ordinary skill in the art at the time the invention was made, to preclude bidders without a particular length of membership and incorporate it into the

methods of Harrington et al., Lucking-Reiley, and Taylor et al. since there are a finite number of identified, predictable potential solutions (i.e. exclusion parameters) to the recognized need (enjoyable, reliable, and easy-to-use shopping experiences) and one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success.

3. As per claim 2, Harrington et al., Lucking-Reiley, and Taylor et al. teach the method of claim 1 as described above. Harrington et al. further teaches the method wherein the seller sets the at least one parameter value by an item registration mechanism when registering the auction at the one computer system, i.e. the Administration menu is used to create, modify or terminate auctions (see column 11, lines 63-65 of Harrington et. al.).

4. As per claim 3, Harrington et al., Lucking-Reiley, and Taylor et al. teach the method of claim 2 as described above. Harrington et al. further teaches the method wherein the setting of the at least one parameter value and the registering for an auction event is achieved by allowing the seller to use a user interface, i.e. the auctioneer maintains a web site from which information about bonds to be auctioned can be obtained and the website contains a user interface (see abstract and figure 2 of Harrington et al., lines 4-6).

5. As per claim 4, Harrington et al., Lucking-Reiley, and Taylor et al. teach the method of claim 2 as described above. Harrington et al. further teaches the method comprising the step of configuring a bid monitoring mechanism with the parameter value, i.e. the bid verification may include automatically refusing acceptance of submitted bids that do not conform to predetermined bid parameters (see column 4, lines 56-60 of Harrington et al.).

6. As per claim 7, Harrington et al., Lucking-Reiley, and Taylor et al. teach the method of claim 4 as described above. Harrington et al. further teaches the method wherein a plurality of

the parameter values are set by the item registration mechanism for configuring the bid monitoring mechanism so that the submitted bid of the one or more bidders will be precluded if at least one of the plurality of parameter values is not identified by the bid monitoring mechanism during the auction, i.e. the present invention also provides for verifying that each bid is in conformance with predetermined bid parameters (see column 4, lines 56-58 of Harrington et al.).

6. As per claim 9, Harrington et al. teaches a computer system adapted for use in a network, the computer system comprising: a memory containing an item registration application which accepts seller input regarding an auction i.e. the auctioneer is provided with a computer/server connected to a network such as the Internet and the auctioneer maintains a web site on the Internet through the server that may be accessed by users where the source code resides on the auctioneer's computer (see column 6, lines 40-43 and 56-57 of Harrington et al.); and a bid monitoring application, the bid monitoring application is configurable by the seller input, i.e. the selected bid information is predetermined by the issuer prior to the auction and is updated continuously throughout the auction (see column 9, lines 11-13 of Harrington et al.); and, automatically precluding one or more bids from the one or more bidders at another computer system on the network during the auction event that is identified by the parameter value, i.e. the present invention also provides for verifying that each bid is in conformance with predetermined bid parameters and the bid verification may include automatically refusing acceptance of submitted bids that do not conform to predetermined bid parameters (see column 4, lines 56-58 and 60-62 of Harrington et al.). However, Harrington et al. does not explicitly teach the portion of the method where the seller identifies the parameter value or that it is a membership history

value or a bidding history value. Lucking-Reiley, however, does teach the method of setting at least one parameter value for use in precluding submitted bids of one or more bidders by a seller identifying the parameter value when registering for the auction using the item registration application, i.e. on listing-agent sites, the individual seller chooses “a minimum acceptable bid amount” as a parameter in the auction listing (see page 244, lines 9-11 of Lucking-Reiley). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of Harrington et al. One of ordinary skill in the art would have been motivated to incorporate this feature so that if the highest bid does not exceed the amount of the reserve price, then the good will not be sold (see page 244, lines 13-14 of Lucking-Reiley). Additionally, Taylor et al. teaches wherein the parameter value relates to either a membership history value or a bidding history value of the one or more bidders, i.e. the summary table stores a summary of the feedback information regarding the bidders and sellers and bidders that have experienced a particular bidder's behavior during the past auctions provide the feedback information (or comments) regarding the bidder (see page 3, paragraph 0041, lines 3-7 of Taylor et al.). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the systems of Harrington et al. and Lucking-Reiley. One of ordinary skill in the art would have been motivated to incorporate this feature so that the seller has valuable insights to evaluate the potential bidders (see page 4, paragraph 0044, lines 2-3 of Taylor et al.).

Amendments to claim 9 is the same as claim 1, therefore the applied prior art also applied herein.



7. As per claim 19, Harrington et al. teaches a computer network implemented method of processing an online auction event in a multi-user networked environment, between a plurality of bidder client computer systems, an internet service provider server computer system, and a seller at a client computer system, i.e. the present invention is directed to a computer implemented process comprised of the steps of: establishing communications over a network between an auctioneer's computer and a plurality of bidders' computers; providing information regarding financial instruments to be sold to potential bidders (see column 4, lines 34-38 of Harrington et al.); comprising the steps of: receiving at the server a request from a seller client computer system for an auction to sell a good and/or service, i.e. providing information regarding financial instruments to be sold to potential bidders (see column 4, lines 38-39 of Harrington et al.); the server comprising a main memory including: an item registration application and a bid monitoring application, i.e. the auctioneer maintains a web site on the Internet through the server that may be accessed by users and the bid verification may include automatically refusing acceptance of submitted bids that do not conform to predetermined bid parameters (see column 6, lines 41-43 and column 4, lines 56-62 of Harrington et al.); a processor and database storage for identifying and tracking files associated respectively with the seller and bidders, i.e. during the auction the auctioneer's server broadcasts or otherwise makes available selected bid information such as bidder status, or the current highest bid and, if desired, the identity of the current highest bidder and the auctioneer's computer also maintains a database of all bids which can be accessed by interested parties for their own use (see column 5, lines 20-24 and 37-39 of Harrington et al.); receiving seller information at the server through the item registration application which information is stored in the database storage, i.e. auction terms and

conditions, and a description of the instruments to be auctioned, are broadcast or otherwise made available by the auctioneer's server to the bidder's computers where the computer maintains a database (see column 5, lines 17-20 and 37 of Harrington et al.); and monitoring submitted bids at the server from bidder clients by cross referencing the submitted bids in accordance with the parameter value in the database for determining automatically if the submitted bid is to be precluded from being considered in the auction event, i.e. the present invention provides for verifying that each bid is in conformance with predetermined bid parameters and automatically refusing acceptance of submitted bids that do not conform (see column 4, lines 56-62 of Harrington et al.). However, Harrington et al. does not explicitly teach the seller setting the parameter or where the parameter is a membership history or bidding history. Lucking-Reiley, however, does explicitly teach at least one parameter value that is set by the seller and which value is used for configuring the bid monitoring application, i.e. the individual seller chooses a minimum acceptable bid amount as a parameter in the auction listing (see page 244, lines 9-11 of Lucking-Reiley) which the bids are verified for conformance (see column 4, lines 56-57 of Harrington et al.). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of Harrington et al. One of ordinary skill in the art would have been motivated to incorporate this feature so that if the highest bid does not exceed the amount of the reserve price, then the good will not be sold (see page 244, lines 13-14 of Lucking-Reiley). Additionally, Taylor et al. teaches wherein the parameter value relates to either a membership history value or a bidding history value of the one or more bidders, i.e. the summary table stores a summary of the feedback information regarding the bidders and sellers and bidders that have experienced a particular bidder's behavior during the

past auctions provide the feedback information (or comments) regarding the bidder (see page 3, paragraph 0041, lines 3-7 of Taylor et al.). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the methods of Harrington et al. and Lucking-Reiley. One of ordinary skill in the art would have been motivated to incorporate this feature so that the seller has valuable insights to evaluate the potential bidders (see page 4, paragraph 0044, lines 2-3 of Taylor et al.).

Amendments to claim 19 is the same as claim 1, therefore the applied prior art also applied herein.

8. Claims 13-16 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington et al., U.S. Patent No. 6,161,099, reference A on the previously attached PTO-892 in view of Lucking-Reiley, David, *Auctions on the Internet: What's Being Auctioned, and How?*, September 2000, *The Journal of Industrial Economics*, Volume XLVIII, No. 3, page 244, reference U on the previously attached PTO-892, Taylor et al., Publication No. 2002/0065763, reference A on the currently attached PTO-892, and Danneels et al., U.S. Patent No. 6,272,472 B1, reference B on the previously attached PTO-892.

9. As per claim 13, Harrington et al. teaches a process directed to facilitate exclusion of bids automatically prior to bids being entered during an online auction on a computer network, i.e. the present invention is directed to a computer-implemented process comprised of the steps of: establishing communications over a network between an auctioneer's computer and a plurality of bidders' computers wherein each bid is verified in conformance with predetermined bid parameters and submitted bids that do not conform with the parameters are automatically refused (see column 4, lines 34-38 and 56-62 of Harrington et al.); automatically precluding bids from

users at other computer systems on the network during the auction event that are identified by the at least one parameter value, i.e. the present invention also provides for verifying that each bid is in conformance with predetermined bid parameters and automatically refused to accept the submitted bids that do not conform to the parameters (see column 4, lines 56-62 of Harrington et al.). However, Harrington et al. does not explicitly teach a computer program that is contained on a computer readable medium, the setting of the parameter by a user, or wherein the parameter is a membership history or bidding history. Lucking-Reiley teaches the method to allow a seller to set at least one parameter value for use in precluding bids of one or more bidders by the seller identifying the at least one parameter value when registering for an auction at one computer system on a network, i.e. on listing-agent sites, the individual seller chooses “a minimum acceptable bid amount” as a parameter in the auction listing (see page 244, lines 9-11 of Lucking-Reiley). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of Harrington et al. One of ordinary skill in the art would have been motivated to incorporate this feature so if the highest bid does not exceed the amount of the reserve price, then the good will not be sold (see page 244, lines 13-14 of Lucking-Reiley). Also, Taylor et al. teaches wherein the parameter value relates to either a membership history value or a bidding history value of the one or more bidders, i.e. the summary table stores a summary of the feedback information regarding the bidders and sellers and bidders that have experienced a particular bidder's behavior during the past auctions provide the feedback information (or comments) regarding the bidder (see page 3, paragraph 0041, lines 3-7 of Taylor et al.). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the methods of

Harrington et al. and Lucking-Reiley. One of ordinary skill in the art would have been motivated to incorporate this feature so that the seller has valuable insights to evaluate the potential bidders (see page 4, paragraph 0044, lines 2-3 of Taylor et al.). In addition, none of the references teach the computer program product comprising a machine-readable medium. Danneels et al., however, teaches a computer program product comprising a medium readable by a computer, the computer readable medium having a computer code, i.e. computer-implemented method realized as one or more programs on a computer (see column 2, lines 40-46 of Danneels et al.) In addition, Danneels et al. teaches that the programs are storable on a machine-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of Danneels et al.). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the methods of Harrington et al., Lucking-Reiley, and Taylor et al. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of Danneels et al.).

Amendments to claim 13 is the same as claim 1, therefore the applied prior art also applied herein.

10. However, none of the references explicitly teach a membership history wherein the bidders have to have been members for a specific length of time. Taylor et al., however, does teach the review of a bidder's bidding history or profile to determine whether or not to pre-approve the bidder to bid on a listing (see page 2, paragraph 0023, lines 8-11 of Taylor et al.). Since the success of online shopping sites depends upon their ability to provide enjoyable shopping experiences and easy-to-use and reliable environments in which buyers and sellers can

conduct business efficiently, it is paramount that certain bidders be precluded from bidding at an auction based upon particular parameters. As discussed in the above references, it is well-known in the art to prevent bidders from bidding based upon a variety of parameters. Therefore, it would have been obvious to try, by one of ordinary skill in the art at the time the invention was made, to preclude bidders without a particular length of membership and incorporate it into the products of Harrington et al., Lucking-Reiley, Taylor et al., and Danneels et al. since there are a finite number of identified, predictable potential solutions (i.e. exclusion parameters) to the recognized need (enjoyable, reliable, and easy-to-use shopping experiences) and one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success.

11. As per claim 14, Harrington et al., Lucking-Reiley, Taylor et al., and Danneels et al. teach the product of claim 13 as described above. Harrington et al. further teach the computer program product wherein the seller sets the at least one parameter value by an item registration mechanism when registering the auction at the one computer system, i.e. the Administration menu is used to create, modify or terminate auctions (see column 11, lines 63-65 of Harrington et. al.).

12. As per claim 15, Harrington et al., Lucking-Reiley, Taylor et al., and Danneels et al. teach the product of claim 13 as described above. Harrington et al. further teaches the computer program product wherein the setting of the at least one parameter value and the registering for the auction event is achieved by allowing the seller to use a graphical user interface, i.e. the auctioneer maintains a web site from which information about bonds to be auctioned can be

obtained and the website contains a user interface (see abstract and figure 2 of Harrington et al., lines 4-6).

13. As per claim 16, Harrington et al., Lucking-Reiley, Taylor et al., and Danneels et al. teach the product of claim 15 as described above. Harrington et al. further teaches the product comprising a bid monitoring mechanism that is configurable with the at least one parameter value, i.e. the present invention also provides for verifying that each bid is in conformance with predetermined bid parameters (see column 4, lines 56-58 of Harrington et al.).

### ***Response to Arguments***

7. A program of instructions executable by a machine to perform a method is an automation of the method. The advantage of automating this process is that automation eliminates any possible human error in the process and performs the processes more quickly. It was known at the time of the invention that merely providing an automated way to replace a well-known activity which accomplishes the same result is not sufficient to distinguish over the prior art and thus it has been held that the automation of a manual process is within ordinary skill level in the art. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) (Appellant argued that claims to a permanent mold casting apparatus for molding trunk pistons were allowable over the prior art because the claimed invention combined “old permanent-mold structures together with a timer and solenoid which automatically actuates the known pressure valve system to release the inner core after a predetermined time has elapsed.” The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is **not** sufficient to distinguish over the prior art.

8. Applicant argues that Harrington does not disclose or suggest the use of a cut-off date of membership with the auctioneer as a screening criterion for precluding participation of certain bidders. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a cut-off date of membership with the auctioneer as a screening criterion) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant claims "one membership duration parameter value specified a cut-off time," which is taught by Harrington as disclosed above. Furthermore, applicant should provide a reasoned statement explaining why the Applicant believes the Examiner has erred substantively as to the factual findings. A mere conclusory statement of the prior art not teaching the claimed invention is not enough; instead, there must be some articulated reasoning with some rational underpinning to support the differences between the prior art and the claimed invention.

9. Applicant argues that Harrington does not teach a seller identifying a membership duration parameter value. It is submitted that applicant is arguing against the references individually when a combination of references are used in the rejection. Taylor et al. was added because it discloses a membership duration parameter as being well-known in the art. Taylor does teach the review of a bidder's bidding history or profile to determine whether or not to pre-approve the bidder to bid on a listing. As discussed in the above references, it is well-known in the art to prevent bidders from bidding based upon a variety of parameters. Therefore, it would have been obvious to try, by one of ordinary skill in the art at the time the invention was made, to



preclude bidders without a particular length of membership and incorporate it into the methods of Harrington et al., Lucking-Reiley, and Taylor et al. since there are a finite number of identified, predictable potential solutions (i.e. exclusion parameters) to the recognized need (enjoyable, reliable, and easy-to-use shopping experiences) and one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571)270-1368. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. R. R./  
Examiner, Art Unit 3686  
May 22, 2009

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686